

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Drew Murphy	Team: Squad #10	CCRB Case #: 202302782	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Sunday, 11/06/2022 1:50 AM	Location of Incident: 30-89 21st Street in Queens (Outside FDNY building)	18 Mo. SOL 5/6/2024	Precinct: 114		
Date/Time CV Reported Tue, 11/22/2022 2:18 AM	CV Reported At: Mayor's Office	How CV Reported: E-mail	Date/Time Received at CCRB Tue, 04/04/2023 9:18 AM		
<b>Complainant/Victim</b>	<b>Type</b>	<b>Home Address</b>			
<b>Witness(es)</b>	<b>Home Address</b>				
<b>Subject Officer(s)</b>	<b>Shield</b>	<b>TaxID</b>	<b>Command</b>		
1. PO Marlo Alvarado	07307	958237	114 PCT		
2. SGT Richard Harris	03444	951809	114 PCT		
3. PO Sean Stukes	06970	961571	114 PCT		
<b>Witness Officer(s)</b>	<b>Shield No</b>	<b>Tax No</b>	<b>Cmd Name</b>		
1. PO Sean Cronin	13011	967464	114 PCT		
2. PO Mina Ebraheem	25700	969672	114 PCT		
3. Alexander Deluca		971400			
<b>Officer(s)</b>	<b>Allegation</b>	<b>Investigator Recommendation</b>			
A. PO Marlo Alvarado	Abuse: Police Officer Marlo Alvarado forcibly removed § 87(2)(b) to the hospital.				
B. SGT Richard Harris	Abuse: Sergeant Richard Harris forcibly removed § 87(2)(b) to the hospital.				
C. PO Sean Stukes	Abuse: Police Officer Sean Stukes searched § 87(2)(b)				
D. PO Marlo Alvarado	Abuse: Police Officer Marlo Alvarado searched § 87(2)(b)				
E. PO Sean Stukes	Abuse: Police Officer Sean Stukes failed to provide § 87(2)(b) with a business card.				
F. PO Marlo Alvarado	Abuse: Police Officer Marlo Alvarado failed to provide § 87(2)(b) with a business card.				
§ 87(2)(g), § 87(4-b)					

### Case Summary

On November 22, 2022, § 87(2)(b) filed the following complaint with the Mayor's Office. On April 4, 2023, this complaint was received at the CCRB.

On November 6, 2022, at approximately 1:50am, in the vicinity of 30-89 21st Street in Queens, § 87(2)(b) called 911 and requested a police response. Police Officer Marlo Alvarado and Police Officer Sean Stukes, both of the 114<sup>th</sup> Precinct, responded to the scene. § 87(2)(b) told PO Alvarado and PO Stukes that she had information about a murder that occurred in Woodhaven, Queens. PO Alvarado called for an ambulance (**Allegation A: Abuse of Authority—Forcible Removal to the hospital**, § 87(2)(g)). Sergeant Richard Harris, Police Officer Alexander Deluca, Police Officer Sean Cronin, and Police Officer Mina Ebraheem, all of the 114<sup>th</sup> Precinct, responded to the scene. Sgt. Harris told § 87(2)(b) that an ambulance was going to come, and she would be assessed by medical professionals (**Allegation B: Abuse of Authority—Forcible Removal to the hospital**, § 87(2)(g)).

While they awaited the ambulance's arrival, PO Stukes and PO Alvarado thoroughly searched § 87(2)(b) bag and jacket (**Allegations C and D: Abuse of Authority—Search (of person)**, § 87(2)(g)). Sgt. Harris also briefly spoke with § 87(2)(b) mother, § 87(2)(b) on § 87(2)(b) phone. Neither PO Stukes nor PO Alvarado offered to provide § 87(2)(b) with a business card (**Allegations E and F: Abuse of Authority—Failure to provide RTKA card**, § 87(2)(g)).

§ 87(2)(g), § 87(4-b)

The investigation obtained body-worn camera footage from PO Alvarado, PO Stukes, Sgt. Harris, PO Deluca, PO Cronin, and PO Ebraheem (**BR 05-16**) the relevant portions of which will be discussed below.

No arrests or summonses resulted from this incident.

### Findings and Recommendations

**Allegation (A) Abuse of Authority: Police Officer Marlo Alvarado forcibly removed § 87(2)(b) to the hospital.**

**Allegation (B) Abuse of Authority: Sergeant Richard Harris forcibly removed § 87(2)(b) to the hospital.**

§ 87(2)(b) consistently stated (**BR 01, 02**) that she believed that her boyfriend had murdered his child's mother in the Woodhaven Housing Projects earlier that afternoon. After a day of walking around Queens, wondering what she should do, she stopped in front of a firehouse and called 911. Aside from stating that she needed police assistance, she could not recall what she told 911. PO Alvarado and PO Stukes responded to the scene. § 87(2)(b) found PO Alvarado to be dismissive of her, so she asked for a supervisor. Sgt. Harris responded to the scene, and § 87(2)(b) told him that she was paranoid because of the murder in the Woodhaven Houses. § 87(2)(b) called her mother, § 87(2)(b) and handed the phone to Sgt. Harris. Sgt. Harris had a conversation with § 87(2)(b) on the phone, but § 87(2)(b) did not hear either side of the conversation. Following the phone call, Sgt. Harris told § 87(2)(b) that they were going to call an ambulance for her, for her own safety. Shortly thereafter, an ambulance arrived. An EMT took her vitals in the back of the ambulance and then transported her to § 87(2)(b) Hospital.

§ 87(2)(b) did not provide a statement to the investigation.

PO Alvarado stated (**BR 03**) that he and PO Stukes were assigned to a '10-10H' 911 job, which meant that someone needed help. When PO Alvarado and PO Stukes arrived at the scene, § 87(2)(b) was crouched behind a car with her jacket, a plastic bag, and a handbag on the ground. As PO Alvarado and PO Stukes approached § 87(2)(b) she yelled at them that she was being followed and that her boyfriend's family were suspects in a murder at the Woodhaven Houses. PO Alvarado was confused because there were no Woodhaven Projects. § 87(2)(b) repeatedly told the officers that she did not feel safe, that she had not slept in five days, and that she had not been

taking her medication lately. However, she had taken three Atarax pills earlier that day. § 87(2)(b) was on the phone with her mother, § 87(2)(b) and she told § 87(2)(b) not to leave her house because she was not safe. She hung up the phone on § 87(2)(b) and then called her again repeatedly. PO Alvarado decided to call for EMS. § 87(2)(b) was not aggressive with the officers and did not say or do anything that made him suspect that she could become violent; however, he felt that § 87(2)(b) was not making statements that made sense to him. PO Alvarado felt that it was possible that § 87(2)(b) needed medical attention. He decided that EMS should assess § 87(2)(b) and if they decided she was not in need of medical assistance, they could make that determination.

PO Stukes' statement (**BR 04**) was largely consistent with PO Alvarado's statement, with the following exceptions noted. PO Stukes believed that PO Alvarado called for EMS, however, he was not positive whether it was him or another member of service. PO Stukes indicated that § 87(2)(b) told the officers about her medication intake.

In PO Alvarado's BWC (**BR 05-06**), at the 1:40 timestamp, PO Alvarado and PO Stukes approach § 87(2)(b) who is standing in front of a closed firehouse. Her belongings are on the ground in front of her. § 87(2)(b) yells, "I need to make sure my mother is alive right now, because that shooting in Woodhaven, I know that nigga, I was dating him. And he wasn't even caught yet... I don't even know if he did it. But I'm a therapist. I have to fucking give you my phone and that's how y'all treat me? I have to tell you. I don't want to tell y'all shit. But I have to legally tell you... I don't even think he did it. I don't give a fuck. I'm gonna tell you what I'm supposed to tell you, and I'm going the fuck home... I'm not walking to no precinct. I would get shot. They wouldn't even shoot y'all. I would get shot in the back of my head if I walk in that precinct." PO Alvarado turns to PO Stukes and says, "Want to talk to her? I'll call the bus real quick." PO Alvarado steps away and radios for an ambulance. He mentions that § 87(2)(b) is a "possible EDP." PO Stukes' BWC footage (**BR 07-08**) is generally consistent with PO Alvarado's BWC footage.

In Sgt. Harris's BWC (**BR 11-12**) at the 5:00 timestamp, Sgt. Harris steps into the street and speaks to § 87(2)(b) on the phone. He asks § 87(2)(b) if § 87(2)(b) has had any mental episodes before. § 87(2)(b) while on speaker phone, replies, "Yes." Sgt. Harris takes § 87(2)(b) off the speakerphone. Sgt. Harris asks what § 87(2)(b) has been diagnosed with. He says, "Bipolar? OK." At the 6:15 timestamp, Sgt. Harris tells § 87(2)(b) "What we're going to do is, I'm going to have an ambulance come." § 87(2)(b) says, "Good." Sgt. Harris goes on, "They're going to talk to you... If they say you're good to go..." At the 17:20 timestamp, Sgt. Harris speaks with an EMT. He says, "She's very manic. I spoke with Mom on the phone. Mom says she's bipolar. She's going to say she's not bipolar. She is definitely having some sort of episode." Sgt. Harris's BWC was generally consistent with those of PO Alvarado, PO Stukes, PO Ebraheem, PO Deluca, and PO Cronin; however, his conversation with § 87(2)(b) and with the EMT is not captured by the other officers BWC (**BR 05-10; 13-16**).

According to PO Alvarado's memo book entry (**BR 23**), Job# § 87(2)(b), was started as a 10-10H and was finalized as 97H (patient removed to the hospital) with the comment: "Edp."

According to the Event Chronology for § 87(2)(b) (**BR 28**), between 01:24 and 01:50, § 87(2)(b) made three 911 calls in which she stated she was being followed and had information regarding a murder. Police first arrived at 01:50, and at 01:53, a responding officer requested an ambulance.

A request for an AIDED report related to this incident yielded negative results (**BR 22**). § 87(2)(b) refused to sign a HIPAA form for the investigation (**BR 24**). As such, the investigation was unable to obtain her medical records or identify the EMTs who evaluated her.

It is undisputed that § 87(2)(b) called 911 because she suspected someone she knew of having committed a murder. § 87(2)(b) told the officers that she did not believe herself, or § 87(2)(b) to be safe and that if she accompanied the officers to a precinct, she would be shot in the back of the head as they entered. PO Alvarado called for an ambulance to come to the scene. § 87(2)(b)

§ 87(2)(b) told Sgt. Harris this murder was making her feel paranoid. Sgt. Harris spoke to § 87(2)(b) on the phone who told him that § 87(2)(b) was bipolar, and Sgt. Harris told § 87(2)(b) that it would be best for medical professionals to evaluate her and decide whether she needed to go to the hospital.

According to Patrol Guide procedure 221-13 (**BR 19**), an emotionally disturbed person is “a person who appears to be mentally ill or temporarily deranged and is conducting himself in a manner which a police officer reasonably believes is likely to result in serious injury to himself or others.” When working with an EDP, police officers are to “attempt to slow the pace of the incident and establish a dialogue with the EDP while awaiting arrival of specialized personnel.”

According to Patrol Guide procedure 216-01 (**BR 17**), an AIDED case is “any occurrence coming to the attention of a uniformed member of the service which requires that a person, other than a prisoner, receive medical aid or assistance because such a person is: mentally ill.” Upon arrival a uniformed member of service is to “request an ambulance or doctor, if necessary.”

Although she did not appear to be an immediate danger to herself or to others, § 87(2)(b)

behavior and statements § 87(2)(g)

while they waited for an ambulance, Sgt. Harris continued a measured dialogue with § 87(2)(b) in which he obtained more information about § 87(2)(b) mental health condition and history § 87(2)(g)

**Allegation (C) Abuse of Authority: Police Officer Sean Stukes searched § 87(2)(b)**

**Allegation (D) Abuse of Authority: Police Officer Marlo Alvarado searched § 87(2)(b)**

The following allegations derive from body-worn camera footage.

In PO Stukes’ BWC (**BR 07-08**), at the 15:45 timestamp, PO Stukes picks up § 87(2)(b) jacket from the ground. He appears to search the jacket for a few minutes, however, this happens below the frame of the camera, so it is not possible to see whether PO Stukes enters the jacket pockets. At the 25:45 timestamp, PO Stukes follows § 87(2)(b) as she willingly steps onto the ambulance. Although one cannot see whether PO Stukes holds § 87(2)(b) property, it is clear that § 87(2)(b) does not have her bag, nor her jacket on her person as she enters the ambulance. The search referenced above is not clearly captured by any of the other officers’ BWC (**BR 05-06; 09-16**).

In PO Cronin’s BWC (**BR 13-14**), at the 6:50 timestamp, PO Stukes hands a bag to PO Alvarado. He appears to look inside the bag. PO Alvarado’s BWC (**BR 05-06**) consistently shows, at the 18:37 timestamp, that PO Stukes hands something, below the frame of the camera, to PO Alvarado. A zipping sound is audible.

In PO Deluca’s BWC (**BR 09-10**), at the 19:42 timestamp, PO Stukes follows § 87(2)(b) as she willingly steps onto the ambulance. PO Stukes carries § 87(2)(b) jacket and bag as he enters the ambulance.

Throughout all of the consistent and comprehensive BWC obtained by the investigation, § 87(2)(b) never has physical possession of her jacket or her bag. Her items remain on the ground, except for when police officers pick them up (**BR 05-16**).

PO Stukes stated (**BR 04**) that PO Alvarado reminded him to search § 87(2)(b) belongings as they awaited the ambulance’s arrival. PO Stukes thoroughly searched § 87(2)(b) jacket and handbag. He went through the jacket’s pockets and searched the interior of the bag. PO Stukes understood it to be NYPD protocol to search the belongings of everyone removed in an ambulance to be sure that they did not have any weapon, nor anything else that could be used to harm themselves or others, or be used as a means to facilitate an escape. None of § 87(2)(b) actions, nor anything she said, factored into PO Stukes’ decision to search her belongings. PO

Stukes accompanied § 87(2)(b) on the ambulance ride to § 87(2)(b) Hospital.

PO Alvarado stated (BR 03) that he could not recall which of § 87(2)(b) items he searched, but he knew he searched some of § 87(2)(b) belongings prior to the ambulance's arrival. Upon reviewing PO Cronin's BWC, PO Alvarado stated that he did not have an independent recollection of searching § 87(2)(b) bag, specifically; however, he believed that he likely did search the bag. PO Alvarado understood it to be obligatory for police officers to search any civilian to be sure that they did not have anything on their person that could be used to harm themselves, others, or be used to facilitate an escape.

§ 87(2)(b) did not mention any of the police officers searching her or her property in either her interview with CCRB, nor her initial intake statement (BR 01-02).

It is undisputed that PO Stukes and PO Alvarado both searched § 87(2)(b) property while they waited for the ambulance to arrive at the scene. They both consistently stated that they only searched § 87(2)(b) because they understood it to be protocol for any civilian being removed to the hospital.

According to Patrol Guide procedure 221-13 (BR 29), when an EDP has been restrained, officers are to "remove property that is dangerous to life or will facilitate escape," prior to having the individual removed to the hospital.

According to People v. Wylie (BR 30), "Once the police obtain 'exclusive control' over an arrestee's property and there is no longer the possibility of gaining access to the property to seize a weapon or destroy evidence, the search is no longer incident to the arrest... In determining whether exigent circumstances exist to justify a warrantless search incident to a lawful arrest, the governing standard is whether the property has been reduced to the 'exclusive control' of the police."

According to People v. De Bour, 40 N.Y.2d 210 (BR 21) officers may ask an accusatory question if they have founded suspicion that criminal activity is present. An officer can search an individual if the officer has probable cause to believe that the individual has committed a crime.

PO Stukes and PO Alvarado were accurate in noting that officers are obligated to remove all property dangerous to life or useful in facilitating an escape; however, neither of the officers articulated anything, with regards to § 87(2)(b) statements or actions, that lead them to develop a reasonable suspicion that she had a weapon or anything else dangerous in her possession. Furthermore, consistent, and comprehensive BWC shows that § 87(2)(b) never had possession of her jacket or her bag throughout the duration of her interaction with police officers. PO Stukes remained in exclusive control over § 87(2)(b) property as they both entered the ambulance,

§ 87(2)(g)

§ 87(2)(g)

**Allegation (E) Abuse of Authority: Police Officer Sean Stukes failed to provide § 87(2)(b) with a business card.**

**Allegation (F) Abuse of Authority: Police Officer Marlo Alvarado failed to provide § 87(2)(b) with a business card.**

§ 87(2)(b) stated (BR 02) that none of the police officers who responded to the scene provided her with a business card. She also stated that she never requested a business card from any of the police officers present. § 87(2)(b) did not mention anything regarding business cards in her initial intake statement (BR 01).

PO Stukes stated (BR 04) that he never provided a business card to § 87(2)(b) because she never requested one. He stated that he did not need to provide her with a business card because she was never officially stopped by the police officers, they were responding to her 911 call. PO Stukes did not need to provide a business card following his search of § 87(2)(b) property.

PO Alvarado stated (BR 03) that he did not recall whether he, or any other police officer, gave § 87(2)(b) a business card throughout this incident. PO Alvarado stated that none of the police officers were required to provide § 87(2)(b) with a business card following this interaction,

however, if she had asked for a business card, he would have provided one.

All of the police officers' largely consistent, and comprehensive BWC, show that § 87(2)(b) never asked any of the police officers for a business card, and that none of the police officers at the scene provided § 87(2)(b) with a business card (BR 05-16).

Per Patrol Guide procedure 203-09 (BR 20) and New York City Administrative Code 14-174 (BR 18), members of service are to offer a business card at the conclusion of certain law enforcement activities, including frisks and searches of persons which do not result in an arrest or summons.

It is undisputed that PO Stukes and PO Alvarado searched § 87(2)(b) property and did not provide her with business cards following the search. § 87(2)(g)

§ 87(2)(g), § 87(4-b)

#### Civilian and Officer CCRB Histories

- § 87(2)(b)
- PO Alvarado has been a member of service for eight years and has been a subject in four CCRB complaints and six allegations, none of which were substantiated. § 87(2)(g)
- PO Stukes has been a member of service for seven years and has been a subject in one CCRB complaint and one allegation, which was not substantiated. § 87(2)(g)

#### Mediation, Civil, and Criminal Histories

- § 87(2)(b) declined to mediate this complaint.
- On October 11, 2023, a Notice of Claim search request was submitted to the New York City Office of the Comptroller, the results of which will be added to the case file upon receipt (BR 25).
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

#### RPBP History

- This complaint did not contain any allegations of Racial Profiling/Bias-Based Policing.

Squad No.: 10

Investigator:	Drew Murphy	Inv. Drew Murphy	10/11/2023
	Signature	Print Title & Name	Date

Squad Leader:	Maura R. Roche	IM Maura R. Roche	12/06/2023
	Signature	Print Title & Name	Date

Reviewer:			
	Signature	Print Title & Name	Date